place where the work was to be performed. While being thus transported he was killed by a freight train crashing into the rear of the passenger car in which he was riding. *Held*, in an action by the plaintiff to recover for the death of her husband, that when the deceased entered the train for carriage he ceased to be an employee, but, under the contract, became a passenger. Consequently the rule regarding co-employee did not apply and therefore the negligence of the engineer of the freight train in causing the collision did not relieve the company. But see *Baltimore & P. R. Co.* v. *Jones*, 75 U. S. 439, Chase's Cases on Torts, p. 223.

Carriage by Sea—Exceptions in Contract—Negligence—Jettison of Cattle.—Compaina de Navigacion La Flecha v. *Brauer et al.*, 18 Sup. Ct. Rep. 12. In an action in admiralty against a steam navigation company, it appeared that a certain number of cattle were received under a bill of lading stipulating that they were to be "at owner's risk; steamer not to be held liable for accident to or mortality of the animals, from whatever cause arising." During the trip the vessel encountered some rough weather and the master and crew, becoming panic-stricken, drove overboard 126 head of cattle. Such action appearing from the testimony to be unnecessary and due to the incompetency of the crew, *held*, that there could be a recovery. The ordinary contract of a common carrier by sea involves an obligation on his part to use due care and skill in navigating the vessel and in carrying the goods. An exception, in a bill of lading, of perils of the sea, or other specified perils, does not excuse him from that obligation, nor exempt him from one of those perils, to which the negligence of himself or his servants has contributed. *N. J. Steam Nav. Co.*, v. *Merchants B'k*, 6 How. 344. *Transportation Co.* v. *Downer*, 11 Wall. 129. A similar English case is that of *Lenro* v. *Dudgeon*, 17 Law T. (N. S.) 145.

CONTRACTS.

Landlord and Tenant—Coal Leases—Interpretation—Liability of Lessee for Royalty.—Wright et al. v. *Warrior Run Coal Co.*, 38 Atl. Rep. 491 (Pa.). Plaintiff leased to defendants certain coal lands. The lease provided for the payment of a royalty of fifteen cents per ton for all coals mined above the size of chestnut coal, seven and one-half cents for the chestnut, and nothing on the smaller sizes. At the time of the making of the contract there were mined and marketed in that locality seven sizes of coal, including the chestnut. Of the total amount produced, fifteen per cent. was chestnut and nine per cent. smaller, both of which were the incidental product of preparing the other sizes. The demand was greatest for the larger sizes, and very slight for the chestnut. After a few years the demand for the larger sizes diminished, and for the smaller sizes increased to such an extent that it became profitable to produce a greater proportion of smaller coal. In preparing this by breaking up the larger sizes a greater proportion of chestnut and smaller coal was necessarily produced, which also found a profitable market. In an action by the plaintiffs to recover a royalty on the increased production of the chestnut and smaller sizes, the court held that for all chestnut above fifteen per cent, and smaller coal above nine per cent, the average of each produced at the creation of the contract, the lessee should pay a royalty of fifteen cents per ton. Mitchell, J., (dissenting) held the royalty should not be allowed, inasmuch as it was in effect "making a new contract for the parties, in the light of subse-